

1 **Rule 7.3. Solicitation of Clients.**

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3 (a) A licensed paralegal practitioner shall not by in-person, live telephone or real-time
4 electronic contact solicit professional employment from a prospective client when a significant
5 motive for the licensed paralegal practitioner's doing so is the licensed paralegal practitioner's
6 pecuniary gain, unless the person contacted:

7 (a)(1) is a lawyer or other licensed paralegal practitioner;

8 (a)(2) has a family, close personal, or prior professional relationship with the licensed
9 paralegal practitioner, or

10 (a)(3) is unable to make personal contact with a lawyer or licensed paralegal practitioner and
11 the licensed paralegal practitioner's contact with the prospective client has been initiated by a
12 third party on behalf of the prospective client.

13 (b) A licensed paralegal practitioner shall not solicit professional employment by written,
14 recorded or electronic communication or by in-person, live telephone or real-time electronic
15 contact even when not otherwise prohibited by paragraph (a), if:

16 (b)(1) the target of the solicitation has made known to the licensed paralegal practitioner a
17 desire not to be solicited by the licensed paralegal practitioner; or

18 (b)(2) the solicitation involves coercion, duress or harassment.

19 (c) Every written, recorded or electronic communication from a licensed paralegal
20 practitioner soliciting professional employment from anyone known to be in need of legal
21 services in a particular matter shall include the words "Advertising Material" on the outside
22 envelope, if any, and at the beginning of any recorded or electronic communication, unless the
23 recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). For the
24 purposes of this subsection, "written communication" does not include advertisement through
25 public media, including but not limited to a telephone directory, legal directory, newspaper or
26 other periodical, outdoor advertising, radio, television or webpage.

27 (d) Notwithstanding the prohibitions in paragraph (a), a licensed paralegal practitioner may
28 participate with a prepaid or group legal service plan operated by an organization not owned or
29 directed by the licensed paralegal practitioner that uses in-person or other real-time
30 communication to solicit memberships or subscriptions for the plan from persons who are not
31 known to need legal services in a particular matter covered by the plan.

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33 Comment

34 [1] A solicitation is a targeted communication initiated by the licensed paralegal practitioner that
35 is directed to a specific person and that offers to provide, or can reasonably be understood as
36 offering to provide, legal services. In contrast, a licensed paralegal practitioner's communication
37 typically does not constitute a solicitation if it is directed to the general public, such as through a
38 billboard, an Internet banner advertisement, a website or a television commercial, or if it is in
39 response to a request for information or is automatically generated in response to Internet
40 searches.

41 [2] There is a potential for abuse when a solicitation involves direct in-person, live telephone or
42 real-time electronic contact by a licensed paralegal practitioner with someone known to need
43 legal services. These forms of contact subject a person to the private importuning of the trained
44 advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by
45 the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate
46 all available alternatives with reasoned judgment and appropriate self-interest in the face of the
47 licensed paralegal practitioner's presence and insistence upon being retained immediately. The
48 situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

49 [3] This potential for abuse inherent in direct in-person, live telephone or real-time electronic
50 solicitation justifies its prohibition, particularly since licensed paralegal practitioners have
51 alternative means of conveying necessary information to those who may be in need of legal
52 services. In particular, communications can be mailed or transmitted by email or other electronic
53 means that do not involve real-time contact and do not violate other laws governing solicitations.
54 These forms of communications and solicitations make it possible for the public to be informed
55 about the need for legal services, and about the qualifications of available licensed paralegal
56 practitioners and law firms, without subjecting the public to direct in-person, live telephone or
57 real-time electronic persuasion that may overwhelm a person's judgment.

58 [4] The use of general advertising and written, recorded or electronic communications to transmit
59 information from licensed paralegal practitioner to the public, rather than direct in-person or
60 other real-time communications, will help to ensure that the information flows cleanly as well as

61 freely. The contents of advertisements and communications permitted under Rule 7.2 of the
62 Licensed Paralegal Practitioner Rules of Professional Conduct can be permanently recorded so
63 that they cannot be disputed and may be shared with others who know the licensed paralegal
64 practitioner. This potential for informal review is itself likely to help guard against statements
65 and claims that might constitute false and misleading communications in violation of Rule 7.1 of
66 the Licensed Paralegal Practitioner Rules of Professional Conduct. The contents of direct in-
67 person, live telephone or real-time electronic contact can be disputed and may not be subject to
68 third-party scrutiny. Consequently, they are much more likely to approach (and occasionally
69 cross) the dividing line between accurate representations and those that are false and misleading.

70 [5] There is far less likelihood that a licensed paralegal practitioner would engage in abusive
71 practices against a former client, or a person with whom the licensed paralegal practitioner has a
72 close personal or family relationship, or where the licensed paralegal practitioner has been asked
73 by a third party to contact a prospective client who is unable to contact a licensed paralegal
74 practitioner, for example when the prospective client is unable to place a call, or is mentally
75 incapacitated and unable to appreciate the need for legal counsel. Nor is there a serious potential
76 for abuse in situations where the licensed paralegal practitioner is motivated by considerations
77 other than the licensed paralegal practitioner's pecuniary gain, or when the person contacted is
78 also a lawyer or a licensed paralegal practitioner. This rule is not intended to prohibit a licensed
79 paralegal practitioner from applying for employment with an entity, for example, as in-house
80 licensed paralegal practitioner. Consequently, the general prohibition in Rule 7.3(a) and the
81 requirements of Rule 7.3(c) of the Licensed Paralegal Professional Rules of Professional
82 Conduct are not applicable in those situations. Also, paragraph (a) is not intended to prohibit a
83 licensed paralegal practitioner from participating in constitutionally protected activities of public
84 or charitable legal-service organizations or *bona fide* political, social, civic, fraternal, employee
85 or trade organizations whose purposes include providing or recommending legal services to their
86 members or beneficiaries.

87 [5a] Rule 7.3(a) authorizes in-person or other real-time contact by a licensed paralegal
88 practitioner with a prospective client when that prospective client is unable to make personal
89 contact with a licensed paralegal practitioner, but a third party initiates contact with a licensed

90 paralegal practitioner on behalf of the prospective client and the licensed paralegal practitioner
91 then contacts the prospective client.

92 [6] But even permitted forms of solicitation can be abused. Thus, any solicitation which contains
93 information that is false or misleading within the meaning of Rule 7.1 of the Licensed Paralegal
94 Practitioner Rules of Professional Conduct, that involves coercion, duress or harassment within
95 the meaning of Rule 7.3(b)(2) of the Licensed Paralegal Practitioner Rules of Professional
96 Conduct, or that involves contact with someone who has made known to the licensed paralegal
97 practitioner a desire not to be solicited by the licensed paralegal practitioner within the meaning
98 of Rule 7.3(b)(1) is prohibited. Moreover, if after sending a letter or other communication as
99 permitted by Rule 7.2 of the Licensed Paralegal Practitioner Rules of Professional Conduct the
100 licensed paralegal practitioner receives no response, any further effort to communicate with the
101 recipient of the communication may violate the provisions of Rule 7.3(b).

102 [7] This Rule is not intended to prohibit a licensed paralegal practitioner from contacting
103 representatives of organizations or groups that may be interested in establishing a group or
104 prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose
105 of informing such entities of the availability of and the details concerning the plan or
106 arrangement which the licensed paralegal practitioner or licensed paralegal practitioner's firm is
107 willing to offer. This form of communication is not directed to people who are seeking legal
108 services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary
109 capacity seeking a supplier of legal services for others who may, if they choose, become
110 prospective clients of the licensed paralegal practitioner. Under these circumstances, the activity
111 which the licensed paralegal practitioner undertakes in communicating with such representatives
112 and the type of information transmitted to the individual are functionally similar to and serve the
113 same purpose as advertising permitted under Rule 7.2 of the Licensed Paralegal Practitioner
114 Rules of Professional Conduct.

115 [8] The requirement in Rule 7.3(c) that certain communications be marked "Advertising
116 Material" does not apply to communications sent in response to requests of potential clients or
117 their spokespersons or sponsors. General announcements by licensed paralegal practitioners,
118 including changes in personnel or office location, do not constitute communications soliciting

119 professional employment from a client known to be in need of legal services within the meaning
120 of this Rule.

121 [9] Paragraph (d) of this Rule permits a licensed paralegal practitioner to participate with an
122 organization that uses personal contact to solicit members for its group or prepaid legal service
123 plan, provided that the personal contact is not undertaken by any licensed paralegal practitioner
124 who would be a provider of legal services through the plan. The organization must not be owned
125 by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in
126 the plan. For example, paragraph (d) would not permit a licensed paralegal practitioner to create
127 an organization controlled directly or indirectly by the licensed paralegal practitioner and use the
128 organization for the in-person or telephone, live person-to-person contacts or other real-time
129 electronic solicitation of legal employment of the licensed paralegal practitioner through
130 memberships in the plan or otherwise. The communication permitted by these organizations also
131 must not be directed to a person known to need legal services in a particular matter, but is to be
132 designed to inform potential plan members generally of another means of affordable legal
133 services. licensed paralegal practitioners who participate in a legal service plan must reasonably
134 assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3(b). See Rule 8.4(a) of
135 the Licensed Paralegal Practitioner Rules of Professional Conduct.